

News Release



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Labor Department Sues Wisconsin Company and 401(k) Plan Trustees Over Delinquent Employee Contributions

GREEN BAY, Wis. – The U.S. Department of Labor has filed a lawsuit against Greenville-based Paul Peters Construction, Inc., (PPCI) and trustees of the company's savings and retirement plan for failing to forward \$10,440 in employee contributions to the plan and retaining the contributions with the general assets of the company.

Named in the suit are Paul J. Peters, president and sole owner of PPCI, his wife, Kathleen M. Peters, the company's secretary/treasurer, and his son, Eric Peters, PPCI's vice president. The suit alleges that from Feb. 1, 2002, through Sept. 30, 2002, PPCI withheld employees' salary reduction contributions and failed to remit them to the plan's account, retaining them in the company's own general assets.

Paul and Kathleen Peters filed for personal Chapter 7 bankruptcy on Jan. 7, 2003. The Department of Labor filed an adversary complaint on April 25 in the Peters' bankruptcy seeking to prevent them from discharging any debts owed the plan.

The lawsuit, filed Aug. 15 in federal district court in Green Bay, Wis., seeks the appointment of an independent fiduciary to manage and terminate the plan. The suit also seeks to remove the defendants from their positions with the plan, require them to repay the plan for the losses plus interest and permanently bar them from acting in a trust capacity to any plan covered under the Employee Retirement Income Security Act (ERISA). If necessary, the suit also asks that Paul and Eric Peters' accounts be offset to restore accounts of non-fiduciary participants.

Paul Peters Construction, Inc., a builder of custom homes, went out of business in November 2002. The 401(k) plan had assets totaling \$26,186.54 and 16 participants as of Dec. 31, 2002.

Kenneth Bazar, director of the department's Chicago regional office of the Employee Benefits Security Administration (EBSA), said, "Even when plan fiduciaries declare personal bankruptcy, we still act to recoup as much money as possible to pay promised retirement benefits of plan participants."

Employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to make workers whole but allows them to avoid EBSA enforcement actions, civil penalties and any applicable excise taxes. For more information see www.dol.gov/ebsa.

Employers and workers can contact the Chicago Regional Office at (312) 353-0900 or EBSA's toll free number, 1-866-444-EBSA (3272), for help with any problems relating to private-sector pension and health plans.

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(Chao v. Paul Peters Construction, Inc.) Civil Action No. 03-C-0774

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